

**State of California
Office of Administrative Law**

In re:
Occupational Safety and Health (Cal-OSHA)
Division

Regulatory Action:

Title 08, California Code of Regulations

Adopt sections:

Amend sections: 344, 344.1, 344.2

Repeal sections:

**NOTICE OF FILING AND PRINTING ONLY
OF EMERGENCY REGULATION(S) OR
ORDER(S) OF REPEAL**

Government Code Section 11343.8

OAL Matter Number: 2018-1108-01

**OAL Matter Type: Emergency File and Print
Only (EFP)**

This is an emergency request by the Division of Occupational Safety (Division) for filing with the Secretary of State and printing in the California Code of Regulations the Division's adjustments to its inspection and permit fees for the inspection and testing of tanks, pressure vessels, and boilers which are not specifically exempted by Labor Code sections 7624 and 7625. Pursuant to Labor Code section 7721(e), this action must be taken as an emergency and is not subject to review and approval by the Office of Administrative Law.

OAL filed these emergency regulation amendments with the Secretary of State and will publish them in the California Code of Regulations.

Date: November 15, 2018



**Dale P. Mentink
Senior Attorney**

**For: Debra M. Cornez
Director**

**Original: Juliann Sum, Chief
Copy: Denise M. Cardoso**

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2018-1108-01	EMERGENCY NUMBER FFP
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For use by Office of Administrative Law (OAL) only

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OFFICE OF
ADMINISTRATIVE LAW

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

NOV 15 2018

2:12 p

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

Division of Occupational Safety and Health

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Pressure Vessel Fees	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 344, 344.1 & 344.2
	REPEAL
TITLE(S) 8	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)		<input checked="" type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input checked="" type="checkbox"/> Other (Specify) <u>Labor Code, § 7721(e)</u>	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON

Denise M. Cardoso

TELEPHONE NUMBER

(510) 286-7348

FAX NUMBER (Optional)

(510) 286-7039

E-MAIL ADDRESS (Optional)

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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

3/21/18

TYPED NAME AND TITLE OF SIGNATORY

Juliann Sum, Chief

For use by Office of Administrative Law (OAL) only

AUTHORIZED FOR FILING AND PRINTING

NOV 15 2018

Office of Administrative Law

Chapter 3.2. California Occupational Safety and Health Regulations (CAL/OSHA)
Subchapter 2. Regulations of the Division of Occupational Safety and Health

Article 5. Boiler and Tank Permit and Inspection Fee Schedule

§344. Shop, Field and Resale Inspection Program Fees, ~~Consultation and Audit Fees, Boilers and Tanks.~~

- (a) A fee of ~~\$135.00~~\$150.00 per hour, and for work performed after 5 PM on Monday through Friday or at any time on Saturday, Sunday and on a State holiday a fee of \$ 202.50 per hour, or part thereof, including travel time as set forth in part (1) of this subsection, based on quarter hour intervals, with a minimum of one half hour, shall be charged for all work performed in connection with all shop, field erection and resale inspections of all tanks, boilers, parts of tanks and boilers, and nuclear components, and for consultation, surveys, audits, manual review and other activities required or related to the ASME code or other national standards concerning the design or construction of boilers or pressure vessels or for evaluating fabricator's plant facilities when these services are requested of the division by entities desiring these services. Time shall be billed in quarter-hour increments, rounded up to the nearest quarter hour.
- (1) ~~Travel time shall include the travel time from the Division's local office or the site of previous inspection, whichever is less, to the inspection site and travel time from the inspection site to the Division's local office or the site of a following inspection, whichever is less. The Division shall not charge more than one employer for the same period of travel time.~~
- (b) Whenever a person using a qualified safety engineers of employed by the division to perform any of the services stated in Ssection 344, subsection (a) fails to pay the fees required under this subsection (a) within 60 days after from the date on the fees invoice notification, said person shall pay, in addition to the fees required under this subsection (a), a penalty fee equal to 100 percent of the fee. ~~For the purpose of this section, the date of the invoice shall be considered the date of notification.~~
- (c) ~~Expenses:~~
- (1) ~~When the mileage from the division's office of the authorized inspector or authorized inspector supervisor is in excess of 50 miles roundtrip to the inspection site a charge of 55.5 cents per mile shall added to the hourly rate charges.~~
- (2) ~~When overnight expenses are incurred by the authorized inspector or the authorized inspector supervisor, the actual cost of meals and lodging, up to a maximum per day of \$150.00 when lodging is obtained in the counties of Alameda, San Francisco, San Mateo and Santa Clara, and Central and Western Los Angeles, and up to a maximum per day of \$124.00 when lodging is obtained in any other location in the state, will be added to the hourly rate charges.~~

(3) ~~The division shall not charge more than one employer for the same amount of expenses incurred the same day except as follows: When more than one employer incurs these expenses the division may, at its discretion, equitably allocate the expenses among the parties inspected.~~

Note: Authority cited: Sections 60.5, 6308, 7721, ~~and 7722,~~ and 7728, Labor Code. Reference: Sections 7650, 7721, 7725 and 7728, Labor Code.

Chapter 3.2. California Occupational Safety and Health Regulations (CAL/OSHA)

Subchapter 2. Regulations of the Division of Occupational Safety and Health

Article 5. Boiler and Tank Permit and Inspection Fee Schedule

§344.1. Air Tank, Liquefied Petroleum Gas (L.P.G.) Tank, and Boiler Permit Inspection Program Fees.

(a) ~~A fee of \$160.00~~\$150.00 per hour ~~or any part thereof, including travel time as set forth in part (1) of this subsection, based on quarter hour intervals with a minimum of one-half hour,~~ shall be charged for all work performed in connection with all field, resale and alteration permit inspections of air tanks, liquefied petroleum gas (L.P.G.) tanks, and boilers performed by a qualified safety engineers employed by the division. Time shall be billed in quarter-hour increments, rounded up to the nearest quarter hour.

(b) ~~Such fees~~A fee of \$150.00 per hour may also, in the division's discretion, shall be charged for all work performed in connection with all follow-up subsequent consultation or inspections of any of the services stated in section 344.1, subsection (a), to determine if when applicable safety orders requirements have not been complied with within 15 days of the compliance date shown on the preliminary order. Time shall be billed in quarter-hour increments, rounded up to the nearest quarter hour.

(c) ~~No additional fees shall be assessed for follow-up inspections when Ssafety Oorder requirements have been complied with, and the division is notified of such compliance, within 15 days of the compliance date shown on the Ppreliminary Oorder.~~

(1) ~~Travel time shall include the travel time from the Division's local office or the site of previous inspection, whichever is less, to the inspection site and travel time from the inspection site to the Division's local office or the site of a following inspection, whichever is less. The Division shall not charge more than one employer for the same period of travel time.~~

(bd) ~~Whenever a person using a qualified safety engineer employed by the division to perform any of the services stated in section 344.1, subsections (a) and (b) owning or having the custody, management or operation of an air tank, L.P.G. tank, or boiler fails to pay the fees required under this subsections (a) and (b) within 60 days from the date on the fees invoice after notification, said person shall pay, in addition to the fees required under this subsections (a)~~

~~and (b), a penalty fee equal to 100 percent of the fee. For the purpose of this section, the date of the invoice shall be considered the date of notification.~~

Note: Authority cited: Sections 60.5, 6308, 7721, ~~and 7722~~, and 7728, Labor Code. Reference: Sections 7650, 7680, 7681, 7682, 7683, 7721 and 7728, Labor Code.

Chapter 3.2. California Occupational Safety and Health Regulations (CAL/OSHA)

Subchapter 2. Regulations of the Division of Occupational Safety and Health

Article 5. Boiler and Tank Permit and Inspection Fee Schedule

§344.2. Boiler, Tank and Resale Inspection Reports, and Permits to Operate. Air Tank, Liquefied Petroleum Gas (L.P.G.) Tank, and Boiler Permit to Operate Program Fees.

- (a) ~~Permits to operate and Resale Permits shall be issued by the Division, or on behalf of the division, a qualified city or county, or an insurance company, or a corporation or company that inspects only boilers and tanks to be used by such company and not for resale. A qualified city or county or insurance company or a corporation or company that inspects only boilers and tanks to be used by such company and not for resale, is one that employs certified inspectors, as provided for in Section 779 of the Boiler and Fired Pressure Vessel Safety Orders.~~
- (b) ~~A fee of \$45.00 shall be charged to cover the cost of processing each permit to operate. The division shall issue a permit to operate upon receipt of the \$45.00 processing fee, and the inspection report required by Labor Code section 7654 finding the air tank, liquefied petroleum gas (L.P.G.) tank, or boiler subject to the inspection to be in a safe condition for operation. The Division shall issue a permit to operate upon receipt of the inspection reports required by Labor Code section 7654 and a fee of \$ 15.00 to cover the costs of processing the Permit to Operate. If a Permit to Operate is issued on the Division's behalf by a certified inspector employed by an insurance company or by an employer who inspects boilers and tanks for the employer's own use and not for resale, the Division shall assess a fee of \$ 15.00 to cover the cost of processing the Permit to Operate.~~
- (c) ~~Whenever a person owning or having the custody, management or operation of an air tank, liquefied petroleum gas (L.P.G.) tank, or boiler fails to pay the fees required under this subsection (b) within 60 days from the date on the fees invoice after notification, said person shall pay, in addition to the fees required under this subsection (b), a penalty fee equal to 100 percent of the fee. For the purpose of this section, the date of the invoice shall be considered the date of notification.~~

NOTE: Authority cited: Sections 60.5, 6308, and 7721 and 7728, Labor Code. Reference: Sections 7721, 7650, 7654, and 7680, 7683, 7721 and 7728, Labor Code.